IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

CHAMBER SUMMONS NO. 1867 OF 2004
IN
SUMMARY SUIT NO. 3760 OF 1989

Karimjee Ltd .....Plff
vs.
Sharad R. Khanna .....Defendant
AND
Khanna Rayon Industries
P.Ltd ....Applicant

I.D. Cruz for the applicants
B.B. Saraf i/b. Mr. Nagvederai for plffs.
Ms. F. Sidhwa with Ms.S.R.Moghe i/b. Mehta and Girdharlal for defendants.

CORAM: S.U. KAMDAR, J.

DATE : 8TH JUNE, 2005.

JUDGMENT :

1. The present chamber summons is taken out for raising an attachment inrespect of the movables lying in the flat premises being flat no.-22B, Kapur Mahal, 65, Marine Drive, Bombay-20.

2. The movables which are subject matter of attachment in the schedule to the present chamber summons which includes various furnitures and fixtures and A.C's which are lying in the premises. The present application has been taken out by the company known as Khanna Rayon Industries Private Limited and the applicant has contended that the furniture and fixtures and A.C.'s lying in the said flat belongs to the said company known as Khanna Rayon Private Limited. As in the case of the other two chamber summons being Chamber Summons no. 1715 of 2004 and Chamber Summons No. 1826 of 2004 which pertains to the flat premises itself. In this case also the said judgment debtor Mr. Sharad Khanna has utilised the clock of corporate entity and a company known as Khanna Rayon Industries has been put forward. It is not in dispute that the judgment debtor and his close relatives are the directors and shareholders of the said company. However the learned counsel appearing for the applicant though has not relied upon any evidence or documents insupport of the chamber summons

produced before me the invoices in the name of the applicant in so far as the air-conditioners in the said premises are concerned. Once again admittedly in the present case M/s. Khanna Rayon Private Limited has nothing to do so whatsoever with the said premises being flat no-22B nor they are claiming any right, title and interest inrespect of the said premises. However the learned counsel has contended that the said 5A.C.’s belongs to the company and also produced the balance sheet to contend that the company at the relevant time has spent the money inrespect of the said 5 A.C.’s. In view of the fact that the company has produced the invoices and the Balance Sheet to indicate that the 5 A.C.’s are infact purchased by the company. In so far as the 5 A.C.’s are concerned I raise the attachment and allow the chamber Summons to that extent only. In so far as the furniture and fixtures lying in the premises are concerned the learned counsel for the applicant states that he does not have in his possession any documents of any nature whatsoever to show that the said furniture and fixtures lying in the said premises

also belong to the applicant therein. In the absence of any such proof it is not possible to accept the contention on the part of the applicant herein in so far as the furniture and fixtures are concerned.

3. In view thereof I dismiss the chamber summons to the extent of furniture and fixtures. I allow the chamber summons in respect of the 5 A.C.'s. Thus the attachment on the said 5 A.C.'s stands raised whereas the attachment inrespect of furnitures and fixtures is confirmed. The Sheriff is permitted to proceed with the execution of the decree by sale of the said furnitures and fixtures and realise the amount thereof. Chamber summons is disposed off accordingly. No order as to costs.

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